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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,630	01/24/2004	Russell Dennis	RD9-03-001	7726
7590	04/05/2005		EXAMINER	
Laurence R. Letson P.O. Box 910567 Lexington, KY 40591			FERGUSON, MICHAEL P	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/763,630	DENNIS, RUSSELL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael P. Ferguson	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 March 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 24 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Species 1, Figures 1-3, claims 1-13, in the reply filed on March 14, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 14, 2005.

***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Claim Objections***

4. Claims 1, 5-8 and 10-12 objected to because of the following informalities:  
Claim 1 (line 9) recites "of portion of". It should recite --of a portion of--.  
Claim 5 (line 2) recites "said thickened portions". It should recite --thickened portions--.

Claim 6 (line 2) recites "widening said opening". It should recite --widening of said opening--.

Claim 7 (line 2) recites "said pawls". It should recite --said pawl--.

Claim 8 (line 4) recites "pair of pawls supported". It should recite --pair of pawls each supported--.

Claim 8 (line 5) recites "with said tensioner". It should recite --with one of said tensioners--.

Claim 10 (line 2) recites "wherein said tensioner". It should recite --wherein each said tensioner--.

Claim 11 (line 2) recites "said thickened portions". It should recite --thickened portions--.

Claim 12 (line 2) recites "widening said opening". It should recite --widening of said opening--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6 and 8-12 are rejected under 35 U.S.C. 102(e) as being anticipated by House et al. (US 6,648,305).

As to claim 1, House et al. disclose a device for tensioning a flexible member relative to a structure comprising:

a body **98** for engaging a support structure;

the body supporting a tensioner **94,96**, the tensioner rotationally supported by the body;

a pawl **70** supported on the body and rotationally movable to engage one end thereof with the tensioner;

a depression in the end of the tensioner (depressions in the end and sides form tool head **58,60**) for rotation thereof,

the pawl having an engaging end perpendicular to the pawl and engaging the surface of a portion of the tensioner, thereby blocking rotational movement of the tensioner (Figures 4 and 6).

As to claim 2, House et al. disclose a device wherein the pawl **70** is biased toward a position wherein the pawl engaging end is blockingly engaged with the tensioner **94,96** (Figure 4).

As to claim 3, House et al. disclose a device wherein the body **98** is unitary (functions as a single unit).

As to claim 4, House et al. disclose a device wherein the tensioner **94,96** comprises a substantially cylindrical structure having an opening **46** substantially parallel to the axis of the cylinder for receiving an end of a flexible member (Figure 4).

As to claim 5, House et al. disclose a device wherein the opening **46** comprises a widening **36,38,40** of the opening to accommodate thickened portions of the flexible member (Figure 4).

As to claim 6, House et al. disclose a device wherein the widening **36,38,40** of the opening **46** is located proximate each end of the opening and at mid-opening (Figure 4).

As to claim 7, House et al. disclose a device wherein the bias is provided by a tensioner spring **78** connected to the pawl **70** (Figure 4, column 4 lines 37-40).

As to claim 8, House et al. disclose a device wherein the body **98** supports a pair of tensioners **94,96**, the tensioners rotationally supported by the body;

a pair of pawls **70** each supported on the body and rotationally moveable to engage one end thereof with one of the tensioners, the pawl having an engaging end perpendicular to the pawl and engaging the surface of a portion of the tensioner thereby blocking movement of the tensioner,

each of the tensioners having a depression in the end thereof (depressions in the end and sides form tool head **58,60**) for rotation thereof (Figure 6).

As to claim 9, House et al. disclose a device wherein the body **98** is unitary (functions as a single unit).

As to claim 10, House et al. disclose a device wherein each tensioner **94,96** comprises a substantially cylindrical structure having an opening **46** substantially parallel to the axis of the cylinder for receiving an end of a flexible member (Figure 4).

As to claim 11, House et al. disclose a device wherein the opening **46** comprises a widening **36,38,40** of the opening to accommodate thickened portions of the flexible member (Figure 4).

As to claim 12, House et al. disclose a device wherein the widening **36,38,40** of the opening **46** is located proximate each end of the opening and at mid-opening (Figure 4).

As to claim 13, House et al. disclose a device wherein the bias is provided by a tensioner spring **78** connected to the pawls **70** (Figure 4, column 4 lines 37-40).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to tensioning devices:

Boice (US 6,824,121) and Reiff (US 6,848,678) are cited for pertaining to devices comprising tensioners having a depression in the end thereof.

Alexander (US 2,991,975), Holmes (US 3,290,010), Landy (US 6,547,218) and Chang (US 6,808,164) are cited for pertaining to devices comprising a tensioner spring.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)308-2686. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MPF  
03/24/05



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